

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 CAPITOL MALL, 17TH FLOOR
SACRAMENTO, CALIFORNIA 95814

FILE NO. RH 04 03 7941

JUNE 3, 2005

NOTICE OF PROPOSED REGULATORY ACTION
REGARDING
PRESCRIBED METHOD FOR FILING OF NOTICES OF APPOINTMENT OF AGENTS AND
NOTICES OF TERMINATION OF APPOINTMENT OF AGENTS

NATURE OF PROCEEDING

Pursuant to California Government Code (CGC) section 11346 *et seq.*, Insurance Commissioner John Garamendi (Commissioner) proposes to commence a rulemaking proceeding to adopt Article 12 of Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations (CCR) regarding the Prescribed Method for the Filing of Notices of Appointment of Agents and Notices of Termination of Appointment of Agents with the Department of Insurance ("Department" or "agency", herein). The Commissioner conducts this rulemaking proceeding to gather information and public comment concerning this proposed regulation.

AUTHORITY AND REFERENCE

The Commissioner proposes to adopt Article 12 pursuant to the authority of California Insurance Code (CIC) section 1707. The purpose of this regulation is to implement, interpret, and make specific the provisions of CIC section 1707.

INFORMATIVE DIGEST

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Any unavoidable technical terms are defined in plain English.

Proposed Section 2194.41, Authority and Purpose

The purpose of this section is to set forth the authority and purpose of the proposed regulation. Specifically, this proposed new section is promulgated pursuant to the authority of CIC section 1707 and its purpose is to establish the prescribed method that all insurers must use to submit notices of appointment of agents and notices of termination of appointment of agents to the agency.

CALIFORNIA DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED REGULATORY ACTION

*Re Prescribed Method for Filing of Notices of Appointment of Agents
and Notices of Termination of Appointment of Agents (RH 04 03 7941)*

Proposed Section 2194.42, Prescribed Method of Electronic Filing

The purpose of this subsection is to set forth the required method (electronic) and relevant deadlines for the filing of notices of appointment of agents and notices of termination of appointment of agents. Specifically, this section provides that within six (6) months ("the grace period") of the effective date of the regulation, all insurance companies must submit notices of appointment of agents and notices of termination of appointment of agents in an electronic form for the following licenses: Fire & Casualty, Life Agent, Travel Agent, Disability Only, Part Time Fraternal, Motor Club, Personal Lines, and Home Protections. Further, this section specifies that any paper notices of appointment of agents or notices of termination of appointment of agents received after the six month grace period will be considered null and void.

This section also sets forth the approved entities that carriers may use for the electronic submission into the department's Insurance Producer Licensing Database. Specifically, the regulation states that the National Insurance Producer Registry (NIPR) and its authorized business partners or any other vendors approved by the California Department of Insurance may be used to electronically submit notices of appointment of agents and notices of termination of appointment of agents to the agency.

Finally, this subsection specifies that the agency reserves the right to develop its own direct method of electronic submission.

Proposed Section 2194.43, Prescribed Alternate Methods of Filing

This section prescribes alternate methods of filing, that is, exceptions to the general rule that all notices of appointment of agents and notices of termination of appointment of agents must be filed electronically.

Specifically, this subsection provides that when a producer is "terminated for cause" by an insurer; that an insurer shall submit, in writing, an "Action Notice of Termination of Company Appointment" (Form 447-54T) along with an explanation of the "for cause termination".

This section also specifies a second exception to the electronic filing requirement for companies that annually appoint and terminate, in the aggregate, twenty-five (25) or fewer agents. This section goes on to specify that requests for an exception to the mandatory electronic filing requirement must be submitted, in writing, along with an Action Notice of Appointment (Form 447-54A) or Action Notice of Termination (Form 447-54T) and with the applicable fees as set forth on the Department's website.

CALIFORNIA DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED REGULATORY ACTION

*Re Prescribed Method for Filing of Notices of Appointment of Agents
and Notices of Termination of Appointment of Agents (RH 04 03 7941)*

Finally, this section specifies that an exception to the mandatory electronic filing of notices of appointment and notices of termination of appointment will be made for lines of insurance that are not covered by subsection 2194.43.

SUMMARY OF EXISTING LAWS AND REGULATIONS

Existing CIC section 1707 establishes the requirement that a notice of appointment of agent or notice of termination of appointment of agent shall be filed on a form prescribed by the commissioner, within 10 days of the appointment or termination of the agent, except as otherwise provided in section 1704.5. However, neither the statute nor existing regulations prescribe the *method* of filing for notices of appointment of agents and notices of termination of appointment of agents.

COMPARABLE FEDERAL LAW

There are no existing federal regulations and no statutes comparable to the proposed regulations.

POLICY STATEMENT OVERVIEW

Currently, the majority of California insurance companies file notices of appointment of agents and notices of termination of appointment of agents electronically. However, some companies file notices of appointment of agents and notices of termination of appointment of agents by mailing paper forms to the agency. The objective of this proposed regulation is to have all insurance companies submit appointments and terminations electronically, rather than paper filings, for certain licenses in an effort to improve the agency's efficiency in processing notices of appointment and notices of termination of appointment.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Commissioner has determined that the proposed regulation does not impose a mandate on local agencies or school districts. There are no costs to local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE AND LOCAL GOVERNMENT/FEDERAL FUNDING

The Commissioner has determined that there will be no direct or indirect cost or savings to any state agency, local agency or school district and no cost or savings in federal funding to the state as a result of this regulation. The proposed regulations will not affect small businesses because insurance companies are not, by definition, small businesses.

ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Commissioner has made an initial determination that this proposed regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Commissioner believes that the proposed regulations will not have a significant cost impact on private persons or businesses directly affected by them. To the extent that the proposed regulations do have an impact on the costs of private persons or businesses directly affected, the cost impact is a result of the Insurance Code sections being implemented, interpreted or made specific by the proposed regulations. The Commissioner invites all interested parties to comment on this issue.

AFFECT ON CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The agency has considered the impact that the proposed regulation may have on business, specifically, on the insurance industry and including the ability of California businesses to compete with businesses in other states.

The agency has determined that the proposed regulation will have no impact on (1) the creation or elimination of jobs within the State of California, (2) the creation of new businesses or the elimination of existing businesses within the State of California or (3) the expansion of businesses currently doing business within the State of California.

For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, the agency will consider any information supplied by interested parties

EFFECT ON HOUSING COSTS

This proposed new regulation would have no effect on housing costs.

ALTERNATIVES

The agency must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

CALIFORNIA DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED REGULATORY ACTION
*Re Prescribed Method for Filing of Notices of Appointment of Agents
and Notices of Termination of Appointment of Agents (RH 04 03 7941)*

DEPARTMENT OF INSURANCE CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to:

Natasha Ray, Sr. Staff Counsel 300 Capitol Mall, 17 th Floor Sacramento, CA 95814 (916) 492-3559	or	Keith Kuzmich, Chief Licensing Bureau 300 Capitol Mall, 16th Floor Sacramento, CA 95814 (916) 492-3511
--	----	---

RECEIPT OF WRITTEN PUBLIC COMMENTS

Any interested person may submit written comments relating to the proposed adoption of this regulation to Natasha R. Ray, Senior Staff Counsel, at the Department of Insurance address set forth above. **The public comment period will close on July 18, 2005.** Statements, arguments or contentions relating to this proposed adoption must be received by the Insurance Commissioner, at either address listed above, no later than 5:00 p.m. on **July 18, 2005** in order to be considered.

Written comments also may be sent via electronic mail to Ms. Ray at rayn@insurance.ca.gov.

Any written materials received after **July 18, 2005** will not be considered by the agency before the adoption of the proposed regulation.

Written comments sent via electronic mail must also be received no later than 5:00 p.m. on **July 18, 2005**.

INITIAL STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared an "Initial Statement of Reasons" (attached) which sets forth the reasons for the proposed adoption of this regulation. The Initial Statement of Reasons and all of the information upon which this proposed new regulation is based, together with the express terms (text) of the proposed regulation will be made available for inspection, or will be provided at no charge, upon request to either of the Department contact persons listed above.

REQUEST FOR PUBLIC HEARING

No public hearing has been scheduled regarding the proposed adoption of this regulation. However, any interested person, or his or her duly authorized representative, may request a public hearing **no later than July 5, 2005**, by submitting to the agency contact person, set forth above, a **written** request to hold a public hearing.

CALIFORNIA DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED REGULATORY ACTION

*Re Prescribed Method for Filing of Notices of Appointment of Agents
and Notices of Termination of Appointment of Agents (RH 04 03 7941)*

AVAILABILITY OF CHANGED TEXT

If the regulation adopted by the Department differs from, but is sufficiently related to, the action proposed, the full text of resulting adoption, with the change clearly indicated, will be made available to the public for at least 15 days before the agency adopts, amends or repeals the resulting regulation.

ACCESS TO FINAL STATEMENT OF REASONS

The Final Statement of Reasons, once it has been prepared, may be obtained from Natasha R. Ray, Senior Staff Counsel. Ms. Ray's contact information is listed above.

ELECTRONIC PUBLICATION OF WRITTEN MATERIAL AND AVAILABILITY OF RULEMAKING FILE

This notice, the text of proposed regulation, the initial statement of reasons and the final statement of reasons (once prepared) may also be accessed through the Department's internet website at www.insurance.ca.gov.

All related regulatory documents and information may also be obtained from either contact persons listed above.

Also, upon prior request, the rulemaking file, including reports, documentation, and other materials relating to this proposed regulatory action, will be made available for public inspection at 300 Capitol Mall, 17th floor, Sacramento, CA 95814 between the hours of 9:00 am and 4:30 pm, Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest, the Initial Statement of Reasons and Text of the Regulation, automatically will be sent to all persons on the Insurance Commissioner's mailing list.

IMPACT ON SMALL BUSINESSES

There is no adverse impact on small businesses. This regulation impacts insurance companies, which are not small businesses.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposal will not impose any non-discretionary cost or savings on local agencies.